

REMARKS

Claims 15-21 are pending in the application.

The Examiner rejected claims 15-21 under 35 U.S.C. 112 first paragraph as failing to comply with the written description requirement, and under 35 U.S.C. 112 second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 15 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Dial, Jr. '424. Claims 15, 18, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Carvel '504. Claims 19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dial, Jr. '424 or Carvel '504 in view of Schultz '761. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dial, Jr. '424 or Carvel '504 in view of Torricelli '570. Finally, claims 15-21 are also rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 13-19 of U.S. Patent No. 6, 629,395.

Applicant respectfully traverses the §112, §102, and §103 rejections with the following arguments.

35 U.S.C. §112

The Examiner rejected claims 15-21 under both paragraph one, as failing to comply with the written description requirement, and under paragraph two, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, Examiner took exception to language in Claim 15, line 9.

Claim 15 has been amended to address the rejection. Applicant contends that no new matter has been added. Applicant points to *inter alia* page 3, lines 5-6; page 12 lines 2-4; and Figure 1 for support for the amended disclosure.

35 U.S.C. §102

The Examiner rejected claims 15 and 20 under 35 U.S.C. 102(e) as being anticipated by Dial, Jr. '424 (US 6,032,424).

Applicant respectfully contends that Dial does not anticipate claim 15, because Dial fails to teach, or suggest, each and every element of claim 15, as amended. For example, Dial does not teach "whercin at least one of said first, second and end surfaces simultaneously provides **only horizontal support** to a plurality of layers of discrete components before and during a single pour application of a binding material to the wall unit form" as in claim 15, as amended. (Emphasis added). To the contrary, Dial teaches and suggests an interior mold wall as in Figure 16 that defines openings 62 that receive the discrete components 64. These openings hold the discrete components vertically in place both during and prior to the placement of any binding material into the form. Contrastingly,

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in the present invention, the form surfaces only abut and/or are adjacent to the stacked layers of placed components. Based on the preceding arguments, Applicant respectfully maintains that Dial does not anticipate claim 15, and that claim 15 is in condition for allowance. Since claims 16-21 depend from claim 15, Applicant contends that claims 16-21 are likewise in condition for allowance.

The Examiner rejected claims 15, 18, and 20 under 35 U.S.C. 102(b) as being anticipated by Carvel '504 (US 1,809,504).

Applicant respectfully contends that Carvel does not anticipate claim 15, because Carvel fails to teach, or suggest, each and every element of claim 15, as amended. For example, Carvel does not teach the entire combination of "wherein at least one of said first, second and end surfaces simultaneously provides **only horizontal support** to a plurality of layers of discrete components during a single pour application of a binding material to the wall unit form, thereby forming at least **one wall unit having a substantially vertical surface** of said plurality of layers of discrete components; and further wherein at least one of said first, second and end surfaces is configured to be **removably attached from one another to facilitate entry into a volume defined by the upright form**" as in claim 15, as amended. (Emphasis added). For example, Carvel teaches forming members or sections of wall on the ground, with a horizontal orientation as in Figure 1. Many of the discrete components receive no support from the form itself and are merely placed on the ground or embedded in sand. Further, the wall units are never formed in a vertical manner under Carvel. The units are formed on the ground and must be hoisted into place to form a part of

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the wall under construction. The wall unit itself is not vertically oriented as the formation occurs. Finally, the framework in Carvel are only removed after the pour has occurred as the form is horizontal so it does not require a hinged entry into the volume. To the contrary, the present invention offers the unique combination of the elements that the plurality of layers all abut or are adjacent to the form wall; the wall is formed in a vertical orientation; and the form walls are hinged in order to allow entry into the upright form during component placement. Based on the preceding arguments, Applicant respectfully maintains that Carvel does not anticipate claim 15, and that claim 15 is in condition for allowance. Since claims 16-21 depend from claim 15, Applicant contends that claims 16-21 are likewise in condition for allowance.

35 U.S.C. §103

Claims 19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dial, Jr. '424 or Carvel '504 in view of Schultz '761. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dial, Jr. '424 or Carvel '504 in view of Torricelli '570.

Regarding the above listed rejections, each of these rejections is directed to a dependent claim, which depends from independent claim 15. Applicant maintains that the neither Shultz nor Toricelli overcomes the glaring deficiencies in Dial and Carvel, and, therefore, the rejections should similarly be withdrawn.

Double Patenting

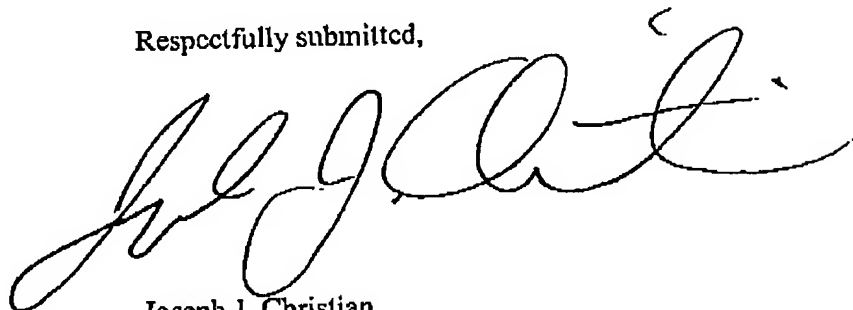
In response, Applicant's representative has filed a terminal disclaimer which is included herewith.

CONCLUSION

Based on the preceding arguments, Applicant respectfully submits that claims 15-21 and the entire application meet the acceptance criteria for allowance and therefore request favorable action. If the Examiner believes anything further would be helpful to place the application in better condition for allowance, Applicant invites Examiner to contact Applicant's representative at the telephone number listed below. The Director is hereby authorized to charge and/or credit Deposit Account 19-0513.

Date: 5/24/2005

Respectfully submitted,



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